

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SAMUEL FAIBISH, et al.	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
	:	
THE LINCOLN ON LOCUST, L.P. et al.	:	NO. 13-6376

MEMORANDUM

Bartle, J.

November 5, 2013

Plaintiffs, Samuel Faibish, Yehuda Olewski, Kalman Farkas and I.M. Rottenberg, have sued defendants The Lincoln on Locust, L.P. ("Lincoln on Locust") and ADAR, L.L.C., to enjoin the sale of a property located at 1222-1226 Locust Street, Philadelphia, Pennsylvania, and to obtain related relief.

Plaintiffs aver that subject matter jurisdiction exists based on diversity of citizenship under 28 U.S.C. § 1332(a). There is no federal question alleged.

The court raised sua sponte the question whether it had subject matter jurisdiction over the action. See Nesbit v. Gears Unlimited, Inc., 347 F.3d 72, 77 (3d Cir. 2003). Under 28 U.S.C. § 1332(a), district courts "have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$ 75,000, exclusive of interest and, and is

between ... citizens of different States." Complete diversity of citizenship is required, that is, no plaintiff may be a citizen of the same state as any defendant. See Exxon Mobil Corp. v. Allapattah Servs. Inc., 545 U.S. 546, 553 (2005); Kaufman v. Allstate N.J. Ins. Co., 561 F.3d 144, 148 (3d Cir. 2009).

Plaintiffs plead that they are all citizens of the state of New York. The citizenship of a limited liability company such as defendant ADAR, L.L.C. is determined by the citizenship of each of its members. Zambelli Fireworks Mfg. Co. v. Wood, 592 F.3d 412, 418 (3d Cir. 2010). The sole member of ADAR is Jacob Unger, a citizen of New York. As such, ADAR is a citizen of New York. A limited partnership such as defendant Lincoln on Locust, L.P. has the citizenship of each of its partners. The general partner of Lincoln on Locust is ADAR, which, as noted above, is a citizen of New York. While the number and identity of the limited partners of Lincoln on Locust are disputed, it is uncontested that Andre Engel, a citizen of New York, is one of the limited partners.¹ Thus, complete diversity of citizenship does not exist here because the

¹ We held a telephone conference with counsel for all parties in this matter on November 4, 2013. All conceded that Jacob Unger and Andre Engel are citizens of New York. These facts also came to the court's attention in a related action, East Mark Int'l Ltd. v. ADAR, LLC, Civ. A. No. 13-1204 (E.D. Pa.).

plaintiffs and the defendants are all citizens of the state of New York.

Plaintiffs maintain that jurisdiction exists because both ADAR and Lincoln on Locust are organized under the laws of Pennsylvania and have their principal place of business in the Commonwealth. This is simply an incorrect statement of the law.

Because we lack subject matter jurisdiction over this action, the complaint will be dismissed without prejudice.

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ORDER

AND NOW, this 5th day of November, 2013, for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that the complaint in the above-captioned action is DISMISSED without prejudice due to lack of subject matter jurisdiction.

BY THE COURT:

/s/ Harvey Bartle III
J.